

MEMO ENDORSED

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF STATE COUNSEL
LITIGATION BUREAU

January 22, 2021

By ECF

Hon. Kenneth M. Karas
United States District Judge
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

RE: Knight, et al. v. DOCCS, et al., - Case No. 18-cv-07172 (S.D.N.Y.)

Dear Judge Karas:

This office represents Defendants Dr. Lee and Nurse Practitioner Acrish in the above-referenced action. I am mindful that in granting Plaintiffs' motion for an extension of the discovery deadlines last month, the Court admonished the parties that "there will be no more extensions." Dkt. No. 187 at 2. Sadly, however, extraordinary circumstances arising from a COVID-related medical emergency for my colleague, Assistant Attorney General Acosta-Pettyjohn, prevent her from working on the case for the next several weeks, and therefore I am compelled to request, with Plaintiffs' consent, a further 60-day extension of the remaining discovery deadlines.

More specifically, last Thursday Ms. Acosta-Pettyjohn's young daughter was hospitalized, and the following day was diagnosed with multisystem inflammatory syndrome in children ("MIS-C"), which is related to COVID-19. Ms. Acosta-Pettyjohn, who has been the only other lawyer staffed with me on this case since May 2020, has been staying with her daughter in the pediatric ICU wing of the hospital as her daughter undergoes treatment as part of a recovery process that will likely last many weeks. At the same time, based on discussions with Ms. Agnew, it appears we will need to conduct as many as 16 fact depositions. Defendants need to conduct depositions of the three Plaintiffs, which have been complicated to schedule as remote depositions given the very limited video conferencing capabilities and lack of internet service (for security reasons) at DOCCS correctional facilities. Plaintiffs need to complete the deposition of Defendant Dr. Lee and are seeking seven non-party depositions of DOCCS current and former employees and outside medical providers. Plaintiffs also intend to produce sworn declarations from five other outside medical providers over the next three weeks whom Defendants will likely need to depose. Under the current schedule, fact depositions must be completed by March 1, 2021.

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I want to assure the Court that my office is doing its best to minimize any disruption to the schedule caused by Ms. Acosta-Pettyjohn's very unfortunate medical emergency. Two days ago, my office assigned Assistant Attorney General Gee Won Cha to work with me on the case. But Ms. Cha will need a reasonable period of time to review the voluminous medical records produced in this case before she can play an active role defending and taking depositions.

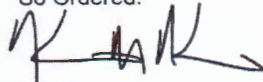
Under these circumstances, I am requesting, with Ms. Agnew's consent, that the Court extend the discovery deadlines as follows:

- Fact depositions completed by 4/30/21
- Expert reports and disclosures by 5/14/21
- Expert rebuttals by 6/14/21
- Expert depositions by 7/16/21
- Movant's pre-motion letter due 6/1/21, non-movant's response by 6/8/21
- Case management conference on 6/15/21

We appreciate the Court's consideration of this extension request based on extraordinary circumstances arising from a very unfortunate and serious COVID-related illness.

The revised discovery schedule is approved. The next case management conference will be 6/9/21 at 11:30 am. The Court wishes Ms. Acosta-Pettyjohn and her family all the best.

So Ordered.



1/25/21

Respectfully,

/s/ Andrew S. Amer

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cc: Plaintiffs' Counsel (via ECF)